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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

31083.05455

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on November 4, 2005Signature Vivian DeLaRosaTyped or printed name Vivian DeLaRosa

Application Number

09/867,068

Filed

05/29/2001

First Named Inventor

ROBERT H. Scheer

Art Unit

3623

Examiner

JARRETT, SCOTT L.

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

- ☐ applicant/inventor.
- ☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒ attorney or agent of record.
Registration number 35,906

☐ attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34 _____

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November 4, 2005

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.

☐ *Total of _____ forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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REASONS FOR REVIEW REQUEST

In the application claims 1-15 remain pending. Claims 16-22 have been canceled without prejudice. No claims presently stand allowed.

Pending claims 1-15 stand rejected under 35 U.S.C. § 103 as being rendered obvious by Roddy alone (e.g., independent claim 1) or as further modified by the teachings of Yang.

It is respectfully submitted that the rejection of the claims must be withdrawn for the reason that neither Roddy nor Yang, whether considered alone or in combination, disclose, teach, or suggest the elements set forth in the claims when the claims are considered "as a whole," i.e., considering each and every word.

Turning to Roddy, it is respectfully submitted that Roddy simply fails to disclose, teach, or suggest a system in which a customer agent server in communication with a customer maintenance system extracts from a work order in the customer maintenance system information which identifies at least items expected to be used during a repair procedure to create an advance demand notice order for those items and which then uses a distributor system, which responds to the receipt of the advance demand notice, to initiate a staging of the items [specified in the work order] within the supply chain as is set forth in claim 1. For this reason the rejection of the claims under 35 U.S.C. § 103 must be withdrawn.

As discussed extensively in the previously filed responses, Roddy discloses a system in which a monitoring system on board a vehicle monitors the operating parameters of the vehicle and which calls a data center (18) to thereby upload the operating parameters to the data center. The data center then examines the operating parameters received from the onboard monitoring system to determine if there exists a critical fault or anomaly in the vehicle. If a critical fault or anomaly is detected, the data center develops a service recommendation and the service

recommendation is then uploaded to an Internet web page by the data center. A user, e.g., service technician, may then be notified that the data center has uploaded a service recommendation to the Internet web page by means of an email message, telephone call, fax, or other form of communication. A user may then access the Internet web page, review the service recommendation, and begin preparations for a repair activity prior to the vehicle arriving at a repair facility.

From the foregoing, it is evident that the system disclosed within Roddy is not the same as or even similar to the system that is set forth in the claims. For example, neither the onboard monitoring system of Roddy nor the data center of Roddy can be said to extract information from a work order entered into a customer maintenance system, where the work order includes information that identifies a piece of equipment to be repaired and one or more items expected to be used during a repair procedure, to thereby create an advance demand notice for the items as is claimed. Instead of performing these operations, the onboard monitoring system of Roddy does nothing more than monitor vehicle operating parameters for uploading to the data center and the data center of Roddy does nothing more than receive the operating parameters when the operating parameters are uploaded to the data center by the onboard monitoring system. It is therefore evident that neither the onboard monitoring system of Roddy nor the data center of Roddy can be said to initiate the withdrawal, pulling, or taking out of information *from a work order stored on another system*, in particular a customer maintenance system, as appears to be alleged in the rejection of the claims. It is additionally respectfully submitted that Roddy not only fails to disclose that which is claimed but, by disclosing a system in which the data center generates a work order which is then uploaded by the data center to an Internet Web site as opposed to a system in which information is extracted from a work order stored within a

customer maintenance system for use in creating an advance demand notice, Roddy teaches directly against the system that is expressly set forth in the claims. Accordingly, for the reason that Roddy cannot be said to disclose any system that includes all of the elements associated with the claimed “customer agent server” the rejection of the claims under 35 U.S.C. § 103 must be withdrawn.

Even assuming that Roddy does disclose some system that may operate to extract information from a work order stored in a customer maintenance system to thereby create an advance demand notice for items specified within the work order, which Roddy clearly does not, it is noted that Roddy still fails to disclose, teach, or suggest any system that operates to respond to the receipt of an advance demand notice (or even the work order generated by the data center for that matter) to initiate a staging of items within a supply chain to meet an expected use of the items during a repair procedure. Rather, than disclose, teach, or suggest the claimed distributor system which operates to cause a staging of items within a supply chain in response to receipt of an advance demand notice, in the system of Roddy a service technician is responsible for: a) manually retrieving the work order created and uploaded by the data center to an Internet web page; b) manually reviewing the work order created and uploaded by the data center to the Internet Web page and; c) manually initiating the movement of items to a service location for use in the repair procedure, i.e., team members gather or reserve the parts. (para 0087). Accordingly, for the further reason that Roddy cannot be said to disclose any system that includes all of the elements associated with the claimed “distribution center” the rejection of the claims under 35 U.S.C. § 103 must be withdrawn.

As concerns the “official notice” that the use of intelligent agents is well established and well known, it is once again submitted that the mere fact that intelligent agents have existed in

the past does not teach or suggest reconstructing Roddy to include those claim elements that are clearly missing from Roddy in the first instance. A rejection under 35 U.S.C. § 103 requires that all of the elements claimed be disclosed in one or more references and that the combination of these elements be suggested by the prior art. Thus, even assuming that the expert system of Roddy could be built using a plurality of technologies including but not limited to intelligent agents as asserted in the Advisory Action, it is respectfully questioned how the desire to build the system of Roddy so as to benefit from the use intelligent agents would further teach or suggest reconstructing Roddy to include that which is not included within Roddy in the first instance, for example, to include within Roddy the claimed system which operates to extract information from a work order entered into a customer maintenance system and use the information extracted from the work order in the customer maintenance system to create an advance demand notice for the items specified in the work order. Since the mere knowledge that intelligent agents exists cannot be said to cure the multitude of shortcomings within Roddy, it is respectfully submitted that the espoused reconstruction of Roddy based upon the mere knowledge that intelligent agents exist and are beneficial is not only unduly speculative but further evidences that the motivation to reconstruct Roddy could only have been arrived at through the impermissible using of the subject application as the reconstruction guide. Therefore, for the yet further reason that the mere knowledge that intelligent agents exist and are beneficial cannot be said to demonstrate that one of ordinary skill in the art, with no knowledge of the claimed invention, would have reconstructed Roddy to include those claimed elements which Roddy fails to disclose, teach, or suggest in the first instance, e.g., all of the elements of the claimed “customer agent server” and/or all of the elements of the claimed “distributor system,” it is submitted that the rejection of

the claims fails to support a *prima facie* case of obviousness and the rejection of the claims under 35 U.S.C. § 103 must be withdrawn.

As discussed in the prior submitted response, since it has been demonstrated that the disclosure within Roddy is not sufficient to maintain the rejection of claim 1 under 35 U.S.C. § 103, the Applicant has elected not to argue further the fact that Roddy fails to be “prior art” to the subject application for patent. The Applicant, however, reserves the right to further develop this ground of argument in the Appeal Brief should such action be necessary. Similarly, since nothing from Yang can be said to disclose, teach, or suggest modifying Roddy to include those claim elements that are clearly missing from Roddy, the Applicant has elected not to argue further the fact that Yang fails to be “prior art” to the subject application for patent. The Applicant, however, reserves the right to further develop this ground of argument in the Appeal Brief should such action be necessary.

CONCLUSION

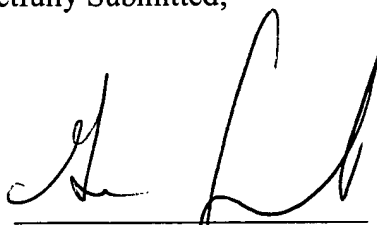
It is respectfully submitted that the application is in good and proper form for allowance. Such action of the part of the reviewing panel is respectfully requested.

The Commissioner is authorized to charge any fee deficiency or credit overpayment to deposit account 50-2428 in the name of Greenberg Traurig.

Respectfully Submitted;

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By:



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